THE HON'BLE MS. JUSTICE G.ROHINI

REVIEW W.P.M.P.(SR).NO.48391 OF 2006
IN
WRIT PETITION NO.9127 OF 2005

ORDER :

This petition is filed seeking review of the order dated 25-04-2005 in W.P.No.9127 of 2005.

The 1st respondent herein is the writ petitioner who sought a direction to the 2nd respondent – Municipality to allow him to construct his house in a Plot situated in Sy.No.690 in Shivanagar locality of Sircilla town, Karimnagar District. The writ petitioner pleaded that he was the owner of the said plot situated in Sy.No.690 and that he made an application under Section 209 of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the Act') seeking permission for construction of R.C.C. residential building which was received in the office of the 2nd respondent Municipality on 27-11-2004, however, the 2nd respondent failed to pass any orders. It was contended that as per the deeming clause under Section 214 of the Act he is entitled to proceed with the construction.

Having heard the learned Counsel for the petitioner as well as the learned Standing Counsel for the Municipality, the said writ petition (W.P.No.9127 of 2005) was disposed of with a direction to the Municipality not to interfere with the construction in question, without following due process of law, making it clear that it is open to the Municipality to initiate appropriate proceedings in case the writ petitioner proceeds with the construction in contravention of the provisions of the Act or the Rules or Bye-laws made thereunder.

Now, the review petitioner claims that he is the owner of the plot in question, and when he made an application on 13-3-2006 seeking permission to construct a commercial and residential house he was informed by the Municipality that in view of the orders in W.P.No.9127 of 2005 the permission cannot be granted. It is contended that the writ

petitioner falsely claimed ownership to the plot in question and as a matter of fact, he did not even make any constructions and the alleged interference by the Municipality was also incorrect.

The writ petitioner filed a counter-affidavit denying the version of the review petitioner and asserting that he is the lawful owner and possessor of the plot in question.

On behalf of the Municipality, the Commissioner filed a counter-affidavit stating that the writ petitioner along with his application for building permission did not enclose any map nor paid the requisite fees.

Having heard the learned Counsel for both the parties and having regard to the material on record, it is clear that both the writ petitioner and the Review petitioner are claiming title and possession of the plot in question which cannot be enquired into by this Court. Even while disposing of the writ petition, this Court did not record any finding as to the title claimed by the writ petitioner, but having regard to the plea of the writ petitioner that the Municipality failed to pass any orders on his application for building permission, the Municipality was directed not to interfere with the construction in question ***without following due process of law***. It was also made clear that the respondents are not precluded to initiate appropriate proceedings in case the petitioner proceeds with the construction in contravention of the provisions of the Act or the Rules or Bye-laws made thereunder.

In the circumstances, it is always open to the respondent Municipality to pass appropriate orders in accordance with law, in case it is found that there is a title dispute with regard to the plot in question.

Accordingly, the Review Petition is disposed of making it clear that this Court has not expressed any opinion as to the title and possession of the writ petitioner in respect of the plot in question and that the order in W.P.No.9127 of 2005 shall not preclude the Municipality from passing appropriate orders in accordance with law with regard to the constructions on the plot in question.

Ordered accordingly.

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G. ROHINI, J.

Dt. 21–7-2006

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